

CITY OF
BERLIN

CEMETERY
RULES &
REGULATIONS

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BERLIN CEMETERY TRUSTEE BYLAWS

For mutual protection and benefit of lot owners, and each cemetery as a unit, the following regulations have been adopted as the Rules and Regulations of Berlin City Cemeteries and all owners and visitors within the cemeteries. All lots sold shall be subject to said Rules and Regulations, and subject further to such other Rules and Regulations, amendments, or alterations as shall be adopted by the Cemetery Trustees from time to time; and the reference to these Rules and Regulations in the Deed or Certificate or Ownership to a lot shall have the same force and effect as if set forth in full therein.

ARTICLE I

Definition of Terms

1. The term "Cemetery Trustees" shall mean the governing body of the City of Berlin, NH.
2. "Cemetery" shall mean City Cemeteries, singly or jointly.
3. The terms "lot", "plot", "burial space", shall be used interchangeably, and shall apply with like effect to one or more than one adjoining graves.
4. The term "interment" shall mean the permanent disposition of the remains of a deceased person by cremation and interment, entombment, or burial.
5. The term "memorial" shall include a monument, marker, tablet, headstone, or tomb.

ARTICLE II

Interments and Disinterments

1. Besides being subject to these Rules and Regulations, all interments and removals are made subject to the orders and laws of the properly constituted authorities of the city, county, and state.
2. Once a casket containing a body is within the confines of the cemetery, no funeral director, or his embalmer, assistant, employee, or agent, shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased.

3. All interments, disinterments, and removals must be made at the time and in the manner and subject to such charges as fixed by the Berlin Cemetery Trustees. The pre-purchase of up to two (2) cemetery lots is permitted.
4. Each earth interment, cremation or full, the remains shall be enclosed in a permanent outside container which shall be installed under the supervision of the Department of Public Works personnel. The owner of the lot or his/her agent shall provide the container. The following are considered permanent outside containers: concrete, composite plastic, or steel or cooper vaults designed to withstand the deteriorating factor of the elements of burial.
5. There will be no interments, disinterments, or removals on Sundays, or the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. If such services are required because of a contagious disease or religious customs, a special additional charge shall be made. There will be no General Assistance Case burials on Saturdays, Sundays, or any holiday.
6. In the case of an indigent person, the City will follow the most current Guidelines for General Assistance, Section IV, Article O, Cremation/Burial Expenses (RSA 165:3).

ARTICLE III

Arrangement for Interments

1. The right is reserved to insist upon at least twenty-four (24) hours notice prior to any interment and at least one (1) week's notice prior to any disinterment or removal.
2. The Berlin Cemetery Trustees reserve the right to refuse interment in any plot, to refuse to open any burial space for any purpose, except on written application by the plot owners of record.
3. The Berlin Cemetery Trustees reserve the right to make an interment of any member of the immediate family of any one of several plot owners upon his written authorization. No other person may be interred in any plot without the consent of all those owners of the plot who are recorded as such on the books of the cemetery.

ARTICLE IV

Correction of Errors

1. When instructions regarding the location of an interment space in a lot cannot be obtained, or are indefinite, or when for any reason, the interment space cannot be opened where specified, the Berlin Cemetery Trustees, may, in their discretion, open it in such a location in the lots as they deem best and proper, so as not to delay the funeral; and the City shall not be liable in damages for any error so made.

2. Detailed written instructions are desired by the Berlin Cemetery Trustees, and the City shall not be responsible for any order given verbally or by telephone, or from any mistake occurring from the want of precise and proper instructions as to the particular space, size, and location in a plot where interment, disinterment, or removal is desired.

3. The City reserves, and shall have, the right to correct any errors that may be made by it either in making interments, disinterments, or removals, or in the description, transfer, or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof, other interment property of equal value and similar location as far as possible or as may be selected by the City, or, in the sole discretion of the City, by refunding the amount of money paid on account of such purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves, and shall have, the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

4. The City shall in no way be liable for any delay in the interment of a body where a protest to the interment has been made, or when the Rules and Regulations have not been complied with. The City reserves the right, under such circumstances, to place the body in a receiving vault until the full rights of the parties have been determined. The City shall be under no duty to recognize any protests of interment unless they are in writing and filed with the Berlin Cemetery Trustees.

5. The Berlin Cemetery Trustees shall not be liable for the interment permit or the identity of the person sought to be interred.

ARTICLE V

Interment Procedures

1. Lots shall be sold only to Berlin residents or former Berlin residents. One (1) full burial shall be permitted to be interred in one (1) single grave lot. Three (3) cremains burials shall be permitted to be interred in one (1) single grave lot. The exception is the new Cates Hill Cemetery Cremains Garden where only two (2) cremains will be permitted per cremains lot.

2. No interment of any body, or the cremated remains of any body, other than that of a human being, shall be permitted in the cemeteries.

ARTICLE VI

Monuments and Markers

1. Only one central or family memorial shall be allowed on a lot and that shall be set on the space designated by the Cemetery Trustees.

2. The maximum size of a memorial is governed by the size of the lot on which it is to be placed, and is to be determined by the Cemetery Trustees. One marker will be permitted per cremains burial. The size of a monument on a single grave is limited to 18" high and 24" wide.

3. Markers shall be flush with the ground. No duplication of raised markers will be allowed unless by the permission of the Cemetery Trustees. Markers shall be placed at the end of the grave farthest from the base of the monument, unless by permission of the Cemetery Trustees.

4. The bottom beds of the bases and markers must be cut level and true and set in cement mortar to allow every part to be in contact with the foundation without the use of pawls or underpinning.

5. While the City will exercise all possible care to protect the memorial, it disclaims responsibility for any damage or injury thereto.

6. No coping, curbing, fencing, hedging, grave mound borders, or enclosures of any kind shall be allowed around any lot; and no walks of brick cinders, tile, stone,

marble, terracotta, sand, cement, gravel, or wood shall be allowed on any lot. The Cemetery Trustees reserve the right to remove the same if so erected, planted, or placed.

7. Cemetery officials shall have the authority to reject any plan or design for any memorial which, in the opinion of the Cemetery Trustees on account of size, design, inscription, kind, or quality of stone is unsuited to the lot on which it is to be placed or is not in conformity with the Rules and Regulations.

8. The Cemetery Trustees reserved the right to stop all work of any nature, whenever proper preparations have not been made; when tools and machinery are insufficient or defective; when work is executed in such a manner as to threaten life or property; when the monument dealer has misrepresented the work; when any reasonable request on the part of the Cemetery Trustees is disregarded; or when work is not being executed according to specifications.

9. The completed work is subject to the approval of the Cemetery Trustees, and if unsatisfactory, it may be removed by the Cemetery Trustees.

10. The name or inscription on each monument, vault, or marker must correspond with the name and record in the office of the Cemetery Trustees, and no changes shall be made thereon except upon request of the proper parties and by permission of the City.

11. No person shall make gravestone rubbings in any municipal cemetery without first obtaining the written permission by the Cemetery Trustees. Photographing or measuring of memorials shall not be allowed except on signed order of the owner or cemetery official.

12. Should any memorial or tomb become unsightly, dilapidated, or a menace to visitors, the City shall have the right either to correct the condition or to remove same at the lot owner's expense.

13. No monument or marker shall be removed from the cemetery, except by the City, unless written request by the plot owner and permission is granted by the Cemetery Trustees.

ARTICLE VII

Foundations and Settings

1. Foundations will be made at least as large as the bottom base, first masonry course above the ground, but the City reserves the right to require a larger foundation when in its opinion, the weight of the structure requires it. Foundation order must specify the exact size of such bottom base or first masonry course above ground.
2. Foundations shall be built to a depth of at least three feet and shall be finished two inches below the surface of the ground where lowest.
3. No monument foundation shall be installed until approval is given by the Public Works person in charge and properly marked out by the Public Works employee in charge of cemeteries.
4. Monument foundations installed shall be graded and properly finished around them within a reasonable time following installation.

ARTICLE VIII

Disinterments and Removals

1. Removal, by the heirs, of a body or cremated remains so that the plot may be sold for profit to themselves, or removal contrary to express or implied wishes of the original plot owner, is repugnant to the ordinary sense of decency and is absolutely forbidden.
2. A body, or cremated remains, may be removed from its original plot to a larger or better plot in the Cemetery, where there has been an exchange or purchase for that purpose.
3. The utmost care will be exercised in making a removal, but the City shall assume no liability for damage to any casket, burial case, or urn incurred in making the removal.

ARTICLE IX

Service Charges and Overdue Indebtedness

1. No interment shall be permitted or memorial placed in or on any property not fully paid for except by special consent of the Cemetery Trustees in each and every case. In the event such consent is given, any and all interments or memorials placed in or on said property shall be considered at temporary. A note

shall not be considered as payment. Rights shall not be acquired by the plot purchaser for said interment or interments until such property is fully paid for in cash, including principal and interest. In case the purchaser of said property shall fail to meet all payments within thirty days after the same are demanded by the City, then the City may re-enter said property and hold the same as its former estate. The City, thereupon, shall be released from all obligations thereunder, and it may retain such payment as may have been made toward the purchase of said property as liquidated damages. The City reserves the right, and shall have the right, immediately or anytime thereafter, without notice and at its discretion, to remove to single graves, to be chosen by the Cemetery Trustees each of the remains then interred in said property. The Cemetery Trustees further shall have the right to remove any memorial that has been placed on said property.

2. The charges for the cemetery services must be paid at the time of interment, disinterment, or removal.

3. The City reserves the right to refuse to do or allow to be done work of any character, including interments in or upon any lot, until arrangements have been made for payment of any and all indebtedness due the City for work performed in or upon the lot.

ARTICLE X

Property Rights of Plot Owners

1. All lots, plots, and burial spaces conveyed shall be presumed to be the sole and separate property of the person or persons named as grantee in the instrument of conveyance; provided, however, that the husband or wife shall have a vested right of interment of his/her body in any burial plot conveyed to the other, which right shall continue as long as he or she shall remain the husband or wife of the plot owner or shall be his or her, wife or husband, at the time of such plot owner's demise. No conveyance or other action without the joinder therein or by written consent attached thereto, shall divest such husband or wife of such vested right of interment provided, however, that a final decree of Divorce between them shall terminate such vested right of interment unless it shall otherwise be provided by such decree of divorce. In all conveyances to two or more persons as joint tenants, each joint tenant shall have a vested right of interment of his or her remains in the plot so conveyed. Upon the death of a joint

tenant, the title of the burial plot heretofore held in joint tenancy immediately vests in survivor or survivors, subject to the vested right of interment for the remains of the deceased joint tenant owner. A vested right of interment as in this rule provided may be waived and shall be terminated upon the interment elsewhere of the remains of a person entitled thereto.

2. Whenever an interment is made in a plot that has been transferred by deed or certificate of ownership to an individual owner by the City and is held as a separate plot, it shall be indivisible, and the whole of such burial plot thereby becomes inalienable and shall be held as the family burial plot of the owner, in which one grave may be used for the owner's interment, and for the interment of the surviving husband or wife, if any, of the owner who by law has vested right of interment and in those remaining, if any, of the children of such deceased owner may be interred in the order of need, without the consent of any person claiming any interest therein. In the event there shall be no child surviving such deceased person, the right of interment therein shall go to the next heirs of law of said deceased owner as specified by the statutes of descent.

ARTICLE XI

Transfer of Assignments

1. No transfer of assignment of any plot shall be valid without the written consent of the Cemetery Trustees. The Cemetery Trustees may repurchase unused cemetery lots at the original sale price.
2. The Cemetery Trustees may refuse to consent to a transfer or to an assignment as long as there is any indebtedness due the City from the record plot owner.
3. All transfers of ownership in plots shall be subject to a nominal charge, which charge shall be paid to the City when the transfer is recorded.
4. The subdivision of plots is not allowed and no one shall be buried in any plot not having an interest therein, except by written consent. The relatives of any record owner may be buried in said plot as provided in these rules or by the laws of the State of NH.

ARTICLE XII

Control of Work within the Cemetery

1. All grading, landscaping, and improvements of any kind, and all care on plots shall be done, and all openings and closing of plots, and all interments, disinterments, and removals shall be made only by the Cemetery Trustees unless by special permit from the Cemetery Trustees in writing.

2. All improvements or alterations of individual property in the Cemetery shall be under the direction of and subject to the consent and approval of the Cemetery Trustees who have the right to remove, alter, or change such improvements or alterations at the expense of the plot owner.

ARTICLE XIII

Decoration of Plots

1. The City shall have the authority to remove all floral design, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the Cemetery as soon as, in the judgment of the Cemetery Trustees, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standards maintained by the Cemetery Trustees. The City shall not be liable for floral pieces, baskets, or frames in which or to which such floral pieces are attached, beyond the acceptance of such floral pieces for funeral service held in the Cemetery. They shall not be liable for lost, misplaced, or broken floral vases. The City shall not be responsible for frozen plants or herbage of any kind, or for plantings damaged by the elements, thieves, vandals, or by other causes beyond its control. They City reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs or plants, or herbage of any kinds unless the Cemetery Trustees give their written consent.

2. The following items are specifically prohibited and if so placed, the Cemetery Trustees reserve the right to remove same:

- a) The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass jars or vases, glass, wood or iron cases and similar articles;
- b) Plants or shrubs behind monument;
- c) Plants on markers except in single grave section;
- d) Trees on any lots;

e) Marble chips around monuments or markers.

3. As a special mark of respect to those who have served our country, the American Flag shall be displayed only on the grave of those persons who have served in the armed forces of the USA.

ARTICLE XIV

Changes in Grade and Replanting

1. The right to enlarge, reduce, replant, or change the boundaries or grading of the Cemetery or of a section or sections, including the right to modify or change the location of or remove or regrade roads, drives or walks, or any part is reserved. The right to lay, maintain, operate, alter or change pipelines or gutters for sprinkling systems, drainage, lakes, etc., is also reserved, as well as is the right to use cemetery property, not sold to individual plot owners, for cemetery purposes including the interring and preparing for interments of dead human bodies, or for anything necessary, incidental or convenient thereto. The City reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over plots for the purpose of passage to and from other plots.

ARTICLE XV

No Easements Granted

1. No easement or right of interment is granted to any plot owner in any road, drive, alley, or walk within the Cemetery, but such road, drive, alley, or walk may be used as a means of access to the cemetery or buildings as long as the Cemetery Trustees devote it to that purpose.

ARTICLE XVI

Conduct of Persons within the Cemetery

1. All persons, vehicles, and funerals within the cemeteries are subject to the control and order of the Berlin Cemetery Trustees.

2. Persons within the cemetery grounds shall use only the avenues, walk, alleys, and roads, and any person injured while walking on the grass, except that be the only way to reach his plot, or while on any portion of the cemetery other than the

avenues, walks, alleys, or roads, shall in no way hold the City liable for any injuries sustained.

3. Only the plot owner and his relatives shall be permitted on the Cemetery plot. Any other person thereon shall be considered a trespasser and the City shall owe no duty to said trespasser to keep the property, or the memorial thereon, in a reasonably safe condition.

4. Children under fifteen (15) years of age shall not be permitted within the Cemetery or its buildings, unless accompanied by proper persons to take care of them.

5. All persons are prohibited from gathering flowers, either wild or cultivated; breaking or cutting trees, shrubbery or plants; defacing or otherwise damaging monuments or structures; or disturbing the birds or animal life.

6. Strangers shall not be permitted to sit or lounge on any of the grounds, graves, or monuments in the cemetery or in any of the buildings.

7. No loud talking shall be permitted on the Cemetery grounds within hearing distance of funeral services.

8. The throwing of rubbish on the drives, paths, or any part of the grounds is prohibited.

9. Vehicles shall not be driven through the grounds at a speed greater than fifteen (15) miles per hour and must always be kept on the right hand side of the cemetery roadway unless otherwise directed by the Cemetery Trustees or their assistants. No vehicle is permitted to park or to come to a full stop in front of an open grave unless such vehicle is in attendance at a funeral. Vehicles must not turn in the driveways or avenues but must proceed to the next intersection before changing direction.

10. Vehicles must be kept under complete control at all times. When meeting a funeral procession they must stop until the procession passes. They must not pass a funeral procession going in the same direction. Vehicles must not be left with the engine running and the emergency brake must be set when the driver is not in his seat. Mufflers must not be open nor the horn sounded within the cemetery.

11. The use of the cemetery as a thoroughfare is prohibited and commercial or business vehicles are permitted to enter only by permission from the Cemetery Trustees.
12. No bicycles or off-road vehicles are permitted within the Cemetery.
13. No firearms shall be permitted within the cemetery except at military funerals or by special written permit from the Cemetery Trustees.
14. No signs or notices or advertisements of any kind shall be allowed in the cemetery unless placed by the Cemetery Trustees.
15. Dogs shall not be allowed on the cemetery grounds except on leash and excrement must be picked up by the dog owner.
16. It is of the utmost importance that there should be strict observance of all proprieties of the cemetery, whether embraced in these rules or not, as no improprieties shall be allowed and the Cemetery Trustees shall have the power to prevent improper assemblages, actions, or protests.
17. The Cemetery Trustees are hereby empowered to enforce all Rules and Regulations, and to exclude from the cemetery any person violating the same, and the Cemetery Trustees shall have charge of the grounds and buildings, and, at all times, shall have supervision and control of all persons within the cemetery, including the conduct of funerals, traffic, and employees. To protect and promote the best interest of the cemetery, they are authorized to make temporary additional rules which may be needed from time to time, to meet emergencies which are not covered by these Rules and Regulations.

ARTICLE XVII

Cemetery Hours

1. The Cemetery Trustees shall have the right to fix the opening and closing hours of the City Cemeteries.

ARTICLE XVIII

Property from Loss or Damage

1. The Cemetery Trustees disclaim all responsibility from loss or damage beyond its reasonable control and especially from damage caused by the elements, an act

of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

ARTICLE XIX

The Care of Plots

1. The term “perpetual care” used in reference to plots, shall be held to mean the cutting of the grass upon said plots at reasonable intervals, the making and cleaning used in reference to plots, shall be held to mean the cutting of the grass upon said plots at reasonable intervals, the making and cleaning of the plots, the pruning of the trees that may be placed by the City; meaning and intending the general preservation of the plots and the grounds, walks, roadways, and boundaries to the end that said grounds shall remain and be reasonably cared for as cemetery grounds forever; but in no case does the City assume responsibility for work on any particular plot involving the expenditure in any one year of an amount greater than would be received if all the funds deposited for the perpetual care of that plot were invested at the same rate of interest as that received from all of the invested funds of the City for that year.
2. The term “perpetual care” shall in no case be construed as meaning the maintenance, repair, or replacement of any memorial or tomb placed or erected upon lots; nor the planting of flowers or ornamental plants; nor watering or sprinkling the lots; nor the doing of any special or unusual work in the cemetery, including work caused by impoverishment of the soil; nor does it mean the reconstruction of any concrete work on any plot necessitated by the elements or an act of God.
3. The money received for perpetual care shall be held in trust and invested as provided by law.
4. Perpetual care, whether applied to lots, graves, or to anything within the confines of the cemetery, shall be limited absolutely to the income received from the investment of the perpetual care fund, no part of the principal shall be expended, anything herein stated to the contrary notwithstanding.

5. It is understood and agreed between the purchaser and the Cemetery Trustees that all of said funds may be deposited with other of like character and intent to the end that the income from such accumulated general fund shall be used in the general improvement and perpetual care as above defined; but in no case shall their deposit be construed as a contract to care of any individual property or space other than as above defined.

6. The income from the perpetual care fund shall be expended by the Cemetery Trustees in such manner as will, in its judgment, be most advantageous to the property owners as a whole, and in accordance with the purposes and provision of the laws of the State applicable to the expenditure of such funds. The Cemetery Trustees are hereby given the full power and authority to determine upon what property, for what purpose and in what manner the income from said fund shall be expended, and it shall expend said income in such a manner as it in its sole judgment, may deem advisable for the care, reconstruction, repair, and maintenance of all or any portion of the cemetery grounds or for any purpose necessary in the execution of its duties.

7. The amount of said perpetual care funds to be collected from the purchasers of cemetery plots shall be determined by the Cemetery Trustees. The cost of the care of said land shall be deposited with the City of Berlin at the time of payment of the purchase price.

8. The record books of the cemetery and the receipt issued by the Cemetery Trustees shall show the amount of perpetual care fund that has been required of the individual and set aside in each case.

ARTICLE XX

Certificate and Rules are Sole Agreements

1. The certificate of ownership and these Rules and Regulations and any amendments thereto shall be the sole agreement between the City and the plot owner. The statement of any employee or agent, unless confirmed in writing by one of its officers, shall in no way bind the City.

ARTICLE XXI

Modifications and Amendments

1. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Cemetery Trustees therefore reserve the right, without notice, to make exceptions, suspensions, or modifications in any of these Rules and Regulations when, in its judgment, the same appears advisable; and such temporary exception, suspension, or modification shall in no way be construed as affecting the general application of such rule.
2. Emergency conditions may cause a labor and material shortage so that certain rules cannot be strictly enforced. To meet these conditions, the rules where necessary, will be temporarily modified or suspended. Such temporary modification or suspension shall in no way be construed as a waiver nor affect the strict enforcement of the rules upon the conclusion of the emergency.
3. The Cemetery Trustees may, and hereby expressly reserve the right, at any time to adopt new rules and regulations, or to amend, alter, or repeal any rule, regulation or article, section, paragraph or sentence in these Rules and Regulations. All rules formerly adopted which are contrary to these Rules and Regulations are repealed and declared to be no longer effective.
4. Workmen engaged in placing or erecting monuments and other structures, or grinding materials, shall operate as independent contractors, but must do so under permission from the Cemetery Trustees and must be under the general supervision of the Cemetery.
5. Persons engaged in erecting monuments, or other structures, are prohibited from attaching ropes to monuments, trees and shrubs, or from scattering their material over adjoining lots, or from blocking avenues or pathways, or from leaving material on the grounds longer than is absolutely necessary. They must do as little injury to the grass and trees as possible and must remove all debris and restore the ground and sod to its original condition. When any heavy material is to be moved over lawns, planks or plywood must be laid to prevent injury or damage.
6. Damage done to lots, walks, drives, trees, shrubs, or other property, by dealers or contractors, or their agents, shall be repaired by the City and the cost of such repair shall be charged to the dealer or contractor or to his principal.

7. No material, machinery, or other thing for the construction of vaults, monuments, or other structures, may be brought into the cemetery until required for immediate use; nor, under any circumstances, when a funeral is in progress; nor between Saturday and Monday morning; nor on a holiday; and no work shall be done during said time; nor shall said material be placed on lots adjoining the one on which such a structure is to be erected, without special permission from the Cemetery Trustees.

8. Work shall proceed promptly until the erection of the memorial is completed.

9. While a funeral or interment is being conducted nearby, all work of any description shall cease.

10. Approaching the bereaved and soliciting memorial business within the cemetery is not permitted.

11. Memorial dealers shall abide by all rules of the cemetery.

12. Any producer or retail dealer who violates the rules of the cemetery shall be removed from the list of approved producers and retail dealers.

In all matters not specifically covered by these Rules and Regulations, the Cemetery Trustees reserve the right to make reasonable changes. Such determination shall be binding upon the lot holder and all parties concerned.